

REMARKS/ARGUMENTS

The rejections presented in the Office action dated September 7, 2005 have been considered. Claims 1-46 are pending in the application. Claims 1, 4, 22, 35, 45 and 46 have been amended. No claims have been cancelled or added. Reconsideration of the pending claims 1-46 and allowance of the application in view of the present amendment and response is respectfully requested.

Claims 1-4, 6-7, 10-19, and 22-46 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,640,097 to Corrigan et al. (hereinafter *Corrigan*).

Applicants respectfully disagree with the Examiner's characterization of *Corrigan* and the assertion that *Corrigan* anticipates these claims. However, to expedite prosecution, Applicants have amended independent claims 1, 22, 24, 35, 45, and 46 to clarify the invention as set forth in these claims. Each of the independent claims 1, 22, 24, 35, 45, and 46, as amended, recites, in some form, collection of bearer characteristics from the mobile push bearers. *Corrigan* does not teach or suggest at least this element of Applicants' invention.

Corrigan does not describe collection of bearer characteristics from the mobile push bearers. For example, bearer characteristics may include push capacity characteristics such as bandwidth, content, capability, availability, latency, assured delivery, quality of service, and the like (see page 19, lines 17-18 of the instant application). Applicants' claims recite a push adaptation layer that allows collection of bearer characteristics from the bearers. "The push adaptation layer is privy to this information from each of the bearers. (see page 26, line 21 of the instant application (emphasis added))

In contrast to Applicants' invention, as recited in claims 1, 22, 24, 35, 45, and 46, for example, *Corrigan* only teaches that "bearer preferences may be configured by the subscriber and or by the Customer Care representative based on the type of application, terminal type tariff and user preference." (see col. 7 lines 1-5 of *Corrigan*) Thus, *Corrigan* only teaches configuration of "bearer preferences" by the subscriber or by the Customer Care representative and does not teach that bearer characteristics can be obtained.

Furthermore, *Corrigan* does not teach or suggest that bearer characteristics are obtained from the mobile push bearers themselves.

Because *Corrigan* does not teach or suggest all the elements of independent claims 1, 22, 24, 35, 45, and 46, these claims are not anticipated by *Corrigan*. Dependent claims 2-4, 6-7, 10-19, 23, 25-34, and 36-44 which are dependent from independent claims 1, 22, 24 or 35, respectively, were also rejected under 35 U.S.C. §102(e) as being unpatentable over *Corrigan*. While Applicants do not acquiesce with the particular rejections to these dependent claims, it is believed that these rejections are now moot in view of the remarks made in connection with independent claims 1, 22, 24, 35, 45, and 46. These dependent claims include all of the limitations of their respective base claims and any intervening claims, and recite additional features which further distinguish these claims from the cited reference. Therefore, dependent claims 2-4, 6-7, 10-19, 23, 25-34, and 36-44 are also not anticipated by *Corrigan*.

Claim 5 stands rejected under 35 U.S.C. §103(a) as being unpatentable over *Corrigan* in view of U.S. Patent Publication No. 2001/0019951 to Haumount (hereinafter *Haumount*). Claims 8-9 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Corrigan* in view of U.S. Patent Publication No. 2002/0156831 to Suorsa et al. (hereinafter *Suorsa*). Claim 20 stands rejected under 35 U.S.C. §103(a) as being unpatentable over *Corrigan* in view of U.S. Patent Publication No. 2003/0190887 to Hook et al. (hereinafter *Hook*). Claim 21 stands rejected under 35 U.S.C. §103(a) as being unpatentable over *Corrigan* in view of U.S. Patent Publication No. 2003/0050051 to Vilander (hereinafter *Vilander*).

To establish a *prima facie* case of obviousness based on a combination of references, three basic criteria must be met, as is set forth in M.P.E.P., §2143:

- 1) There must be some suggestion or motivation, either in the reference itself or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings;
- 2) There must be a reasonable expectation of success; and
- 3) The prior art references must teach or suggest all of the claim limitations.

With respect to the rejection of claims 5, 8, 9, 20, and 21, Applicants reassert the arguments presented above that show *Corrigan* fails to teach or suggest all of the claim limitations of claim 1, from which these claims depend. The asserted references, *Haumount, Suorsa, Hook, and Vilander*, do not overcome the deficiencies of *Corrigan*. The asserted combinations do not teach or suggest all of the claim limitations of the rejected claims as required by the third criterion for *prima facie* obviousness set forth above. For at least these reasons, the case for *prima facie* obviousness fails and Applicants' claims 5, 8, 9, 20, and 21 are patentable over the asserted combinations.

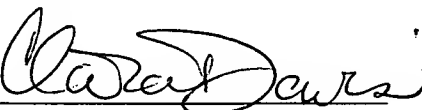
In addition, the asserted combinations of references provide insufficient guidance or motivation for one of ordinary skill in the art having these references before him/her to make the modifications suggested by the Examiner as required by the first criterion of *prima facie* obviousness set forth above. Further, particularly in the absence of reference teachings supplying all of the claim elements, there can be no reasonable expectation that these references could be successfully combined to meet the limitations recited in Applicants' claims as required by the second criterion. *Prima facie* obviousness has not been established with respect to Applicants' subject matter as recited in claims 5, 8, 9, 20, and 21 and these claims are patentable over the asserted combinations.

If the Examiner believes it necessary or helpful, the undersigned attorney of record invites the Examiner to contact her at 952.854.2700 to discuss any issues related to this case.

Respectfully submitted,

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